

Government procurement, CBP applies the provisions of subpart B of Part 177 consistent with the Federal Procurement Regulations. See 19 CFR 177.21. In this regard, CBP recognizes that the Federal Acquisition Regulations restrict the U.S. Government's purchase of products to U.S.-made or designated country end products for acquisitions subject to the TAA. See 48 CFR 25.403(c)(1). The Federal Acquisition Regulations define "U.S.-made end product" as:

. . . an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

The regulations define a "designated country end product" as:

WTO GPA [World Trade Organization Government Procurement Agreement] country end product, an FTA [Free Trade Agreement] country end product, a least developed country end product, or a Caribbean Basin country end product.

A "Free Trade Agreement country end product" means an article that—

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an FTA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product, includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

"Free Trade Agreement country" means Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Oman, Panama, Peru, or Singapore. See 48 CFR 25.003. Thus, Australia is an FTA country for purposes of the Federal Acquisition Regulations.

CBP's authority to issue advisory rulings and final determinations is set forth in 19 U.S.C. 2515(b)(1), which states:

For the purposes of this subchapter, the Secretary of the Treasury shall provide for the prompt issuance of advisory rulings and final determinations on whether, under section 2518(4)(B) of this title, *an article is or would be a product of a foreign country or instrumentality designated pursuant to section 2511(b) of this title.*

Emphasis added.

In this case, the transceiver contains five separate PCBAs. We are told that three of these are produced by the assembly of the various components onto the PCB in Australia, and two are similarly produced in the United States. CBP has consistently held that the assembly of various components onto a blank printed circuit board to produce a PCBA is a substantial transformation. See Headquarters Ruling Letter (HQ) H311447,

dated September 10, 2020, citing HQ 735306, dated December 21, 1993 (" . . . Customs has ruled that the complete assembly of all the components onto a printed circuit board was a substantial transformation of the printed circuit board . . . "), and HQ H302801, dated October 3, 2019 ("The SMT [surface-mount technology] operations result in a new and different product with an overall use and function different than any one function of the individual components."). In this case, the three Australian-produced PCBAs and numerous other components from various countries are imported into the United States for assembly into the finished transceiver. The PCBAs for the control head board and the interface board, PCBAs which CBP considers to be dominant as they are within components which are essential to the functioning of the transceiver, are assembled in the United States. You state that the transceiver cannot function without the control head board. Further, the interface board allows the transceiver to connect to antennae and items such as, modems and audio devices. The interface board enables the micro board to function and interface with external items.

We note the production includes the assembly in the United States of the dominant PCBAs related to the transceiver's function, along with the assembly of all the remaining components of the transceiver to produce the finished good. While CBP does not recognize downloading of firmware or software to constitute a substantial transformation, we note that the conversion of the Australian software into executable code, which occurs in the United States, and programming of the transceiver boards is additional work to be considered in assessing the proper origin of the finished transceiver. See HQ H306349, dated November 26, 2019, (" . . . CBP has consistently held that the downloading of software or firmware is not a substantial transformation.").

Noting that CBP is limited by the language of 19 U.S.C. 2515(b)(1) to a determination of whether a good is a product of a foreign country or instrumentality designated pursuant to section 2511(b) of this title, based upon the information presented, the transceiver is not a product of Australia or any other foreign country or instrumentality designated pursuant to section 2511(b) of Title 19. As to whether the transceiver which is assembled in the United States qualifies as a "U.S.-made end product," we encourage you to review the recent court decision in *Acetris Health, LLC v. United States*, 949 F.3d 719 (Fed. Cir. 2020), and to consult with the relevant government procuring agency.

#### Holding

The transceiver at issue, the Barrett 4050 HF SDR Transceiver, is not a product of Australia or any other foreign country or instrumentality designated pursuant to section 2511(b) of Title 19.

You should consult with the relevant government procuring agency to determine whether the transceiver qualifies as a "U.S.-made end product" for purposes of the Federal Acquisition Regulations implementing the TAA.

Notice of this final determination will be given in the **Federal Register**, as required by

19 CFR 177.29. Any party-at-interest other than the party which requested this final determination may request pursuant to 19 CFR 177.31 that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 CFR 177.30, any party-at-interest may, within 30 days of publication of the **Federal Register** Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Joanne R. Stump

*Acting Executive Director Regulations and Rulings Office of Trade*

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## DEPARTMENT OF HOMELAND SECURITY

[Docket Number DHS-2021-0004]

### Agency Information Collection Activities: COVID-19 Contact Tracing, COVID-19 Contact Tracing Scripts, COVID-19 Contact Tracing Form

**AGENCY:** Department of Homeland Security (DHS).

**ACTION:** 30-Day notice and request for comments; extension without change of a currently approved Collection, DHS-2021-0004.

**SUMMARY:** The Department of Homeland Security, will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. DHS previously published this information collection request (ICR) in the **Federal Register** on Friday, January 15, 2021 for a 30-day public comment period. No comment was received by DHS. The purpose of this notice is to allow additional 30-days for public comments.

**DATES:** The comment period for the information collection request published on January 15, 2021 at 86 FR 4107 is extended. Comments are encouraged and will be accepted until April 2, 2021. This process is conducted in accordance with 5 CFR 1320.1

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

**SUPPLEMENTARY INFORMATION:** COVID-19 Contact Tracing information is necessary to support the President's

National Guidelines for all phases of *Opening Up America Again*. The Office of Management and Budget (OMB) M–20–23 Memorandum for Heads of Executive Department requires employers to develop and implement policies and procedures for workforce contact tracing following an employee's COVID–19 positive test. The M–20–23 Memorandum requires symptomatic Federal employees and contractors to follow their Agency's process if they are symptomatic or test positive for COVID–19. It specifies that the agency processes should protect the anonymity and privacy of Federal employees and contractors, to the extent possible, while disclosing only the information necessary for agencies to take appropriate actions of notifying potentially affected employees and cleaning the facility. Additionally, per the Centers for Disease Control and Prevention guidance entitled *Get and Keep America Open*, COVID–19 Contact Tracing is essential to reduce the spread of COVID–19. Furthermore, in response to the Coronavirus Pandemic, public health leaders are calling for communities around the country to ramp up capacity and implement a massive contact tracing effort to control spread of the Coronavirus. The response and recovery from the effect of COVID–19 will continue to present Federal agencies with unprecedented challenges, as well as opportunities for improvement, that require new processes and practices such as COVID–19 Contact Tracing to keep the workforce and the public safe. As DHS plans to reconstitute the workforce, it is essential to have an internal DHS Contact Tracing Program that protects the workforce and our families by preventing further spread of COVID–19.

*Note:* In the following responses the term employee is used to include federal employee, contractor, detailee, volunteer, and intern.

#### Authority

DHS is authorized to collect the information pursuant to Section 319 of the Public Health Service (PHS) Act (42 U.S.C. 274d); DHS Chief Medical Officer's authorities pursuant to 6 U.S.C. 350 and 6 U.S.C. 597; 6 U.S.C. 464; 21 U.S.C. 360bbb–3; 40 U.S.C. 1315; 42 U.S.C. 97; American with Disabilities Act, including 42 U.S.C. 12112(d)(3), 29 CFR 1630.2(r), 1630.14(b), (c) Workforce safety federal requirements, including the Occupational Safety and Health Act of 1970, Executive Order 12196, 5 U.S.C. 7902; 29 U.S.C. Chapter 15 (e.g., 29 U.S.C. 668), 29 CFR part 1904, 29 CFR 1910.1020, and 29 CFR 1960.66.

This is a new collection for the agency. The contract tracing process is triggered when an employee voluntarily self-reports to their supervisor that they are COVID–19 positive. The supervisor will provide the employee's name and contact information to a DHS Supervisory Contact Tracer. The Supervisory Contact tracer will assign a Contact Tracer to contact and interview the COVID–19 positive employee and obtain a list of employees the COVID–19 positive employee was in close contact with, as well as locations in the DHS worksite that the COVID–19 positive employee visited for 15 minutes or more. The Contact Tracer will call the exposed employees to inform them that were exposed by a DHS COVID–19 positive employee so they can take appropriate precautions in minimizing exposure to other DHS personnel and speak with their supervisor to discuss their work status. The contact tracer will not disclose the name or any other personally identifiable information regarding the COVID–19 positive employee to the exposed employees. The contact tracer will inform the exposed employee to notify their supervisor, contracting company (contractors only), medical provider, and local public health authorities to get instructions. The purpose of contact tracing is to control the spread of COVID–19 in the workforce.

The following information will be collected from the respondent:

- Name (first and last)
- COVID–19 lab test result
- Component Name
- Office address
- Personal phone number (Mobile or Home)
- Work phone number
- Work email address
- Where is your primary site of work (e.g., department, floor, field desk location)
- Supervisor Name (First and Last)
- Supervisor's Phone Number
- Supervisor's Email
- All activities, floors visited in the DHS work site, meeting attended (including lunches, etc.) that the COVID–19 symptoms began
- Last date worked in a DHS worksite
- Names (first and last) of federal employees, contractors, detailees, interns, volunteers who the COVID–19 positive employee was in close contact with, along with the close contacts' work email addresses, work phone numbers, and the last dates of contact.

The collection of information will be automated using Service Now, the

existing DHS Information Technology Help desk ticketing platform. Service Now will be modified to be used as the COVID–19 reporting tool. The COVID–19 positive employee will voluntarily inform their supervisor that they are COVID–19 positive. The COVID–19 positive employee or their supervisor will create a new ticket in the COVID–19 reporting tool and include locations in the office that they were in for 15 minutes or more (to initiate facility cleaning) and names of employees they were in close contact with for 15 minutes or more (to identify exposed individuals to notify). The COVID–19 reporting tool will create a ticket and route this to the employee's supervisor and the supervisory contract tracer. The supervisory contact tracer will assign the case (ticket) to the contact tracer. The contact tracer will call the COVID–19 positive employee to verify information submitted by the employee. The Contact Tracer will call the exposed employees to inform them that were exposed to a DHS COVID–19 positive employee so they can take appropriate precautions in minimizing exposure to other DHS personnel and speak with their supervisor to discuss their work status as detailed in response #2.

The basis of the decision for adopting Service Now as a contact tracing reporting/collection tool are: Service now is an existing operating system with an approved Authority to Operate and is in accordance with DHS IT policies, procedures, and controls. Using information technology helps to streamline the process, adds uniformity, and reduces the burden on the contact tracer. The system includes an active directory for all DHS personnel, and contains the data collection, routing, reporting, and tracking capability required to automate contact tracing reporting, case (ticket) assignment and disposition.

This information collection request will not impact small businesses or other small entities.

In response to the Coronavirus Pandemic, public health leaders are calling for communities around the country to ramp up capacity and implement a massive contact tracing effort to control spread of the Coronavirus. The response and recovery from the effect of COVID–19 will continue to present Federal agencies with unprecedented challenges, as well as opportunities for improvement, that require new processes and practices such as COVID–19 Contact Tracing to keep the workforce and the public safe. As DHS plans to reconstitute the workforce, it is essential to have an internal DHS Contact Tracing Program

that protects the workforce and our families. It is also essential to comply with requirements in the President's National Guidelines for all phases of *Opening Up America Again*, the Office of Management and Budget (OMB) M–20–23 Memorandum for Heads of Executive Department, the Centers for Disease Control and Prevention guidance entitled *Get and Keep America Open*, and for DHS to fulfill its overall mission. If DHS does not establish an internal COVID–19 Contact Tracing program capable of quickly identifying, isolating, tracking, and being aware of potential office outbreaks and workforce exposures, COVID–19 can unknowingly spread throughout the DHS workspace and negatively impact mission readiness and National Security.

As required by the COVID–19 Contact Tracing Script, the Contact Tracer is required to read the following statement at the beginning of the call with each respondent: *“Before we begin, I would like to provide you with the following privacy notice: DHS is requesting information as part of this call for the purpose of maintaining and ensuring a healthy workforce and a safe DHS workspace. Further, this information will help the Department in slowing down the spread of COVID–19 by notifying those individuals who may have been exposed to the disease so that they can take appropriate precautions in minimizing exposure to other DHS personnel and DHS-affiliated personnel. As such, DHS may use the information I collect from you to provide notifications to other potentially exposed personnel. No personally identifiable information will be shared on you to those personnel in an identifiable format. However, information contained from this call may be shared with my supervisory contact tracer to ensure data is appropriately collected. In addition, if you report symptoms of COVID–19, this information may be shared with your supervisor so that he or she may work with you on your work status. Further, no personally identifiable information collected from this call will be shared outside of DHS. This collection is voluntary. However, your participation is requested because contact tracing is a key strategy for preventing further spread of COVID–19.”*

*The following privacy notice is imprinted on the COVID–19 Contact Tracing script and form:*

Warning: This document is FOR OFFICIAL USE ONLY (FOUO). It contains information that may be exempt from public release under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a).

It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with DHS policy relating to FOUO information and is not to be released to the public or other personnel who do not have a valid “need-to-know” without prior approval of an authorized DHS official.

### **The following Privacy Act Statement is for the Service Now COVID–19 Contact Tracing Reporting Tool**

#### **Contact Tracing Privacy Act Statement**

Pursuant to 5 U.S.C. 552a(e)(3), this Privacy Act Statement serves to inform you of why DHS is requesting the information that will be collected by this information system.

#### **Authority**

DHS is authorized to collect the information pursuant to Section 319 of the Public Health Service (PHS) Act (42 U.S.C. 274d); DHS Chief Medical Officer's authorities pursuant to 6 U.S.C. 350 and 6 U.S.C. 597; 6 U.S.C. 464; 21 U.S.C. 360bbb–3; 40 U.S.C. 1315; 42 U.S.C. 97; American with Disabilities Act, including 42 U.S.C. 12112(d)(3)(B), 29 CFR 602.14, 1630.2(r), 1630.14(b)(1), (c)(1), (d)(4); Medical Examinations for Fitness for Duty Requirements, including 5 CFR part 339; Genetic Information Nondiscrimination Act (GINA), including 42 U.S.C. Chapter 21f, 29 CFR part 1635; Workforce safety federal requirements, including the Occupational Safety and Health Act of 1970, Executive Order 12196, 5 U.S.C. 7902; 29 U.S.C. Chapter 15 (e.g., 29 U.S.C. 668), 29 CFR part 1904, 29 CFR 1910.1020, and 29 CFR 1960.66.

#### **Purpose**

DHS will be collecting the information for the purpose of maintaining and ensuring a healthy workforce and a safe DHS workspace. This information will help the Department to prevent the spread of infectious disease by notifying those individuals who may have been exposed so they can take appropriate precautions in minimizing exposure to other DHS personnel and DHS-affiliated personnel.

#### **Routine Uses**

The information will not be shared externally or with any third parties. It will only be used by the DHS Component or Office who employs the individual about whom the information will be collected. Further, no personally identifiable information will be shared with anyone other than the individual's supervisor and the assigned contact tracer. A complete list of routine uses for the information this system will

collect can be found in the system of records notice associated with the system “Office of Personnel Management/GOVT–10—Employee Medical File System Records.” The Department's full list of system of records notices can be found on the Department's website at <http://www.dhs.gov/system-records-notices-sorns>.

### **Consequences of Failure To Provide Information**

Providing information via this system is completely voluntary and no adverse action will be taken against individuals who refuse to participate. However, participation is requested because contact tracing is a key strategy in preventing further spread of infectious disease among the DHS workforce.

The Contact Tracer is required to sign a DHS non-Disclosure Agreement and take the following DHS Training—Privacy and Protecting Personal Information, IT Security Awareness and Rules of Behavior, Cybersecurity Awareness and one of the following Contact Tracer Trainings offered by the Michigan Department of Public Health Michigan Department of Public Health <https://www.train.org/wv/course/1091008/>. Additional contact tracing will be available from the Association of State and Territorial Health Officials <https://learn.astho.org/p/ContactTracer> and Johns Hopkins University <https://www.coursera.org/learn/covid-19-contact-tracing?action=enroll&edocomorp=covid-19-contact-tracing>.

The Supervisory Contact Tracer is required to review a minimum of 10% of interview calls with Contact Tracers to ensure comprehensive and high-quality interviews and compliance with privacy and confidentiality.

Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83–I.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who

are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

#### Analysis

*Agency:* Department of Homeland Security (DHS).

*Title:* COVID-19 Contact Tracing.

*OMB Number:* 1601-0027.

*Frequency:* Annually.

*Affected Public:* Affected Public.

*Number of Respondents:* 500.

*Estimated Time per Respondent:* 1.

*Total Burden Hours:* 167.

**Robert Dorr,**

*Executive Director, Business Management Directorate.*

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## DEPARTMENT OF HOMELAND SECURITY

[Docket Number DHS-2020-0047]

### Agency Information Collection Activities: DHS Civil Rights Evaluation Tool 1601-0024, DHS Form 3095

**AGENCY:** Department of Homeland Security, (DHS)

**ACTION:** 30-Day notice and request for comments; extension without change of a currently approved collection, 1601-0024.

**SUMMARY:** The Department of Homeland Security, will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. DHS previously published this information collection request (ICR) in the **Federal Register** on Thursday, November 19, 2020 at 85 FR 73731 for a 60-day public comment period. No comment was received by DHS. The purpose of this notice is to allow additional 30-days for public comments.

**DATES:** Comments are encouraged and will be accepted until April 2, 2021. This process is conducted in accordance with 5 CFR 1320.1.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open

for Public Comments" or by using the search function.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

**SUPPLEMENTARY INFORMATION:** Recipients of federal financial assistance from the Department of Homeland Security (DHS) are required to meet certain legal requirements relating to nondiscrimination and nondiscriminatory use of federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the Department of Homeland Security do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin, disability, age, sex, or religion, in accordance with the following authorities:

- Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 *et seq.*, and the Department's implementing regulation, 6 CFR part 21 and 44 CFR part 7, which prohibit discrimination on the grounds of race, color, or national origin by recipients of Federal financial assistance. Title VI, through its prohibition against discrimination on the basis of national origin, requires recipients to take reasonable steps to provide meaningful access to persons who are limited English proficient (LEP). See *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, 76 FR 21755-21768 (April 18, 2011).

- Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-

516, 29 U.S.C. 794, which prohibits discrimination on the basis of disability by recipients of Federal financial assistance.

- Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 *et seq.*, and the Department's implementing regulations, 6 CFR part 17, and 44 CFR part 19, which prohibits discrimination on the basis of sex in education program and activities received Federal financial assistance.

- Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. Section 6101 *et seq.*, and the Department implementing regulation at 44 CFR part 7, which prohibits discrimination on the basis of age by recipients of Federal financial assistance.

- U.S. Department of Homeland Security regulation 6 CFR part 19, which prohibits organizations that receive financial assistance from DHS for a social service program from discriminating against beneficiaries on the basis of religion or religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

The aforementioned civil rights authorities also prohibit retaliatory acts against individuals for participating or opposing discrimination in a complaint, investigation, or other proceeding related to prohibited discrimination.

DHS has an obligation to enforce nondiscrimination requirements to ensure that its federally assisted programs and activities are administered in a nondiscriminatory manner. In order to carry out its enforcement responsibilities, DHS must obtain a signed assurance of compliance and collect and review information from recipients to ascertain their compliance with applicable requirements. DHS implementing regulations and the Department of Justice (DOJ) regulation *Coordination of Non-discrimination in Federally Assisted Program*, 28 CFR part 42, provide for the collection of data and information from recipients (see 28 CFR 42.406).

DHS uses DHS Form 3095: DHS Civil Rights Evaluation Tool as the primary tool to implement this information collection. DHS is seeking an extension of the form for another three-year period. DHS is not proposing any changes to the information collected in the form but is proposing changes to Section 1 of the form on instructions to streamline the process for submitting the completed form.

DHS uses the form to collect civil rights related information from all recipients of federal financial assistance from the Department. Recipients are